

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ARTHROCARE CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 07-729-SLR
)	
GYRUS MEDICAL, INC., GYRUS)	
ENT, L.L.C. and GYRUS ACMI, INC.,)	
)	
Defendants.)	

ORDER

At Wilmington this 30th day of June, 2008, having received a response from defendants to my order of June 11, 2008;

IT IS ORDERED that, on or before July 10, 2008, defendants shall inform the court whether they intend to present witnesses at the July 17, 2008 evidentiary hearing. If they choose not to do so, the motion to disqualify (D.I. 14) shall be denied without further order.

1. Defendants cite Conley v. Chaffinch, 431 F. Supp. 2d 494 (D. Del. 2006), for the proposition that specific confidential information need not be gained from the conflicting representation for conflicted counsel to be disqualified. I agree. However, if we start with the premise that motions to disqualify are not only discretionary¹ but “generally disfavored,” id. at 495, it is incumbent on a movant to at least make a

¹“The court has inherent power to supervise the professional conduct of attorneys appearing before it This power includes the authority to disqualify an attorney.” Id. at 495.

showing of the kinds of confidential information that would have been disclosed under the circumstances of record, and how that information would be prejudicial in the context of the case. Before I deprive a party of the representation of its choosing, I require more than a conclusory argument that an opportunity existed for the disclosure of confidential information.

2. Moreover, unlike Conley (where individual litigants were involved), the parties to this case are international corporations with international legal representation. The record indicates that, once the relationship between defendants, Olympus and the instant lawsuit was discovered, all proprieties were followed by Weil Gotshal. Therefore, I find that defendants have not “clearly shown” an appearance of impropriety. Id.


United States District Judge